


MEMORANDUM

To: Ted Rauh
Program Manager
Waste Compliance and Mitigation Program
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Date: September 21, 2009

From: 
Mark de Bie, Division Chief
Permitting and Local Enforcement Agency Support Division
Waste Compliance and Mitigation Program

Subject: REQUEST FOR ACTION ON PROPOSED MODIFIED SOLID
WASTE FACILITIES PERMIT FOR MITSUBISHI CEMENT PLANT
CUSHENBURY LANDFILL FACILITY NO. 36-AA-0074, SAN BERNARDINO
COUNTY

This memo requests that the Program Manager take action on proposed Modified Solid Waste Facilities Permit for the Mitsubishi Cement Plant Cushenbury Landfill, Solid Waste Information System Number 36-AA-0074, located in San Bernardino County. A copy of the proposed permit is attached. The memo provides staff's findings and recommendations relative to the proposed action, pursuant to authority granted to the Executive Director by California Code of Regulations (CCR), Title 27, Sections 21663(a) and 21685 (c). In addition, the Board has delegated to the Executive Director the authority to concur in or object to modified solid waste facilities permits. Board Policy No. BL-6, adopted by Resolution 2007-31, February 13, 2007.

The proposed modified permit was received on July 20, 2009. A re-submittal of the application due to a clarification error was received by CIWMB staff on August 17, 2009. Action must be taken on this permit no later than October 17, 2009. If no action is taken by October 17, 2009, the Program Manager will be deemed to have concurred in the issuance of the proposed modified permit.

Based on our review of the submitted permit package, staff recommends that the Program Manager concurs in the issuance of the modified permit and sign below, as all of the required submittals and findings required by Title 27, Section 21685 have been made and the required CEQA findings have been made in support of concurrence. These findings are summarized in the following table. The documents or analysis on which staff's findings are based are in the facility file for the facility. The proposed changes and more details on findings are presented in more detail below.

Proposed Changes

The following changes to the permit are being proposed:

Current	Proposed
The permitted traffic volume 2 vehicles per day	Permitted traffic volume will be 8 vehicles per day. Only industrial waste generated at the Mitsubishi Cement Plant Cushenbury is accepted for disposal at the on-site landfill. The vehicles travel on private roads within the property boundary of the Mitsubishi Cement Plant Cushenbury to the landfill.
	Additional information in the finding citations, section 13: h. A Notice of Exemption was filed with the San Bernardino County Clerk of the Board on May 8, 2009 to address the increase in the permitted traffic volume on site.
Current prohibitions, section 14: The permittee is prohibited from accepting any non-hazardous waste requiring special handling, designated waste, or hazardous waste, in accordance with all applicable permits, regulations and statutes. The permittee is additionally prohibited from accepting for disposal asbestos (friable or nonfriable) any sewage sludge, whole tires, metallic discards; and from any open burning or scavenging.	Rewording of Prohibitions, section 14: The permittee is prohibited from accepting the following: Hazardous, radioactive, medical (as defined in Chapter 6.1, Division 20 of the Health and Safety Code), liquid, designated, or other wastes requiring special treatment or handling, except as identified in the Report of Facility Information and approved amendments thereof and as approved by the enforcement agency and other federal, state, and local agencies.
Current permit documents citations, section 15: Report of Facility Information 07/92 03/84 Negative Declaration 08/93 Mitigation Monitoring Compliance Program 06/92 Preliminary Closure/Postclosure Plan 11/91 Waste Discharge Requirements 10/90 County of San Bernardino Indemnification Contract 11/93 Closure Financial Responsibility Document 07/93 OPR Filing 10/93 Mitigation Monitoring Compliance Program Reporting 06/92 DTSC Hazardous Waste Facilities Permit 05/93 Blanket WDR's – Colorado Region 09/93 Water SWAT Reports 01/93 Air SWAT Reports 12/91 NPDES Stormwater Permit 01/93 Fire Protection District Findings 09/93 Mining & Reclamation plan revision (County General Plan) Operator Liability Documentation/Verification 11/93	Replacement and updates of permit documents citations, section 15: Report of Facility Information 3-2005 Negative Declaration (SCH#1992052047) 8-1993 Mitigation Monitoring Compliance Program 6-1992 Preliminary Closure/Postclosure Plan 3-2006 Waste Discharge Requirements 10-2000 County of San Bernardino Indemnification Contract 11-1993 Additional permit document citation, section 15: Notice of Exemption 5-2009 The following permit documents citations were removed from the proposed modified permit because they are obsolete: DTSC Hazardous Waste Facilities Permit Land Use Permits and Conditional Use Permits Water SWAT Reports Air SWAT Reports

	<p>NPDES Stormwater Permit Fire Protection District Findings Mining & Reclamation plan revision (County General Plan) Operator Liability Documentation/Verification</p>
<p>Current SWFP Self Monitoring programs, section 16:</p> <p>Summary of tons/day per solid waste received, recovered materials leaving site(per type); daily visual estimate of recovered materials stored on site (in weight, volume or count per type).</p> <p>Summary of written complaints and regulatory notices received by the operator and the operator's responses/corrective action taken.</p> <p>Summary of record-keeping specified in the Hazardous Waste Screening/Exclusion Program including: incidents of unlawful disposal of hazardous materials/prohibited materials, responses/corrective action taken, interim/final disposition of materials.</p> <p>Safety training, reporting and related programs including: IIPP updates, industrial hygiene/safety personal protection equipment availability/training, Business Safety Plan updates.</p> <p>Water quality control of contaminants- monitoring, reporting, remediation and related programs including : Waste Discharge Requirements, water SWAT's Clean up & Abatement Orders/Workplans/ Remediation Schedules, NPDES Permits.</p> <p>Air quality control of emissions-monitoring, reporting, remediation and related programs including : fugitive dust control, LFG monitoring/control, air SWAT's ,AQMD equipment permits.</p> <p>"Taking" of threatened, endangered, rare and /or sensitive species-monitoring, reporting, remediation and compensation per cooperative agreement with operator."</p>	<p>Replacement and rewording of the information in the SWFP Self Monitoring programs, section 16:</p> <p>The types and quantities (in tons) of waste, including separated or commingled recyclables, entering the facility per day.</p> <p>The number and types of vehicles using the facility per day.</p> <p>Summary of written complaints and regulatory notices received by the operator and the operator's responses/corrective action taken.</p> <p>Summary of entries in the Log of Special/Unusual Occurrences and operator's responses/ corrective action taken.</p> <p>Result of the hazardous waste load checking program, including the quantities and types of hazardous waste, medical wastes or otherwise prohibited waste found in the waste stream and the disposition of these materials.</p> <p>Safety training, reporting and related programs including: IIPP updates, industrial hygiene/safety personal protection equipment availability/training, Business Safety Plan updates."</p>
<p>Current SWFP Conditions, section 17:</p> <p>1. The operator shall comply with all State Minimum Standards for Solid Waste Handling and Disposal as specified in Title 27 California code of Regulations (CCR). The operator shall inspect the site at least once each day of operation to ensure compliance with all applicable standards.</p> <p>2. The operator shall comply with all federal, state, and local requirements and enactments including all mitigation and monitoring measures</p>	<p>SWFP Conditions number 5, 6, 7, 9, 10 in section 17 have been removed from the proposed modified permit because they are either obsolete or duplicative of existing regulations or the proposed self monitoring program is unenforceable by the LEA.</p> <p>SWFP Conditions number 1 ,2, 3, 4, 8 in section 17 have been updated, reworded and/or redesignated using letters instead of numbers in the proposed modified permit.</p>

developed in accordance with any certified environmental document filed pursuant to Public Resource Code Section (PRC) §21081.6, and all administrative/ enforcement orders of all regulatory agencies with jurisdiction at this facility.

3. The operator shall maintain a complete copy of this Solid Waste Facility Permit(SWFP) at the facility in a location readily accessible to facility personnel, LEA staff and other regulatory personnel.

4. The operator shall notified the LEA in writing [with proposed amendments to the Report of Facility Information (RFI)], at least one hundred fifty (150) days in advance of proposed significant changes (as determined by the LEA) in the design/ operation of the facility to allow for early consultation, completion of all required documents/due process review/filing and the completion of all related permitting processes. Such notification shall also include any future changes in permitted operations to include: solid waste processing/composting/baling/recycling/ materials recovery facility(MRF)/transfer station and/or transformation facility, change in permitted hours/days of operation, permitted tons/day per category, permitted traffic volumes/day per category, permitted total area, disposal footprint, maximum elevation, maximum depth of waste, and/or estimated closure year, which may be later proposed for this site.

5. The facility is authorized to conduct limited salvaging and to store recovered materials for brief periods of time (not to exceed thirty (30) days for any category of material) as specified by the LEA. Such limited salvaging/storage shall only be conducted as pre-approved by the LEA to preclude the creation of health hazards or public nuisances. The facility shall not be used as a composting facility, materials recovery facility(MRF), processing facility, transfer station and/or transformation facility. No crushing, grinding, mechanical sorting, composting, or other processing shall occur at the facility location except as the LEA may give prior written approval for brief [less than thirty (30) days] experimental pilot project type programs.

6. The operator shall maintain at the facility accurate daily records of the tonnage/day and number of vehicles/day per incoming solid waste, outgoing recovered material (per category); and an estimate (by weight, volume or count) of the total amount of recovered material (per category) stored on site. Such records shall be readily accessible at the facility to the LEA/ other regulatory personnel. A written summary of such tons/day per category, vehicles/day per category, shall be furnished quarterly to the LEA within fifteen (15) days of the end of each quarter.

7. The operator shall furnish a written summary of

Updated SWFP Conditions in section 17 of the proposed permit:

- a. The operator shall comply with all State Minimum Standards for solid waste handling and disposal as specified in Title 14 and 27, California Code of Regulation (CCR).
- b. The operator shall comply with all federal, state, and local requirements and enactments including all mitigation and monitoring measures developed in accordance with any certified environmental document filed pursuant to Public Resource Code Section (PRC)§21081.6 and all administrative/ enforcement orders of all regulatory agencies with jurisdiction at this facility.
- c. The operator shall maintain a log of special occurrences. This log shall include, but is not limited to: fires, explosions, the discharge and disposition of hazardous or unpermitted wastes, and significant injuries, accidents, or property damage. Each log entry shall be accompanied by a summary of any actions taken by the operator to mitigate the occurrence. The log shall be available to site personnel and the LEA at all times.
- d. Additional information concerning the design and operation of the facility shall be furnished upon request and within the time frame specified by the LEA.
- e. The maximum permitted daily tonnage for this facility is 40 tons per day and shall not receive more than this amount without a revision of this permit.
- f. This permit is subject to review by the LEA and may be suspended, revoked, or revised at any time for sufficient cause.
- g. The LEA reserves the right to suspend or modify waste receiving and handling operation when deemed necessary due to an emergency, a potential health hazard, or the creation of a public nuisance.
- h. Any change that would cause the design or operation of the facility not to conform to the terms and conditions of this permit is prohibited. Such a change may be considered a significant change, requiring a permit revision. In no case shall the operator implement any change without first submitting a written notice of the proposed change, in the form of a Report of Facility Information amendment, to the LEA at least 180 days in advance of the change.
- i. A copy of this permit shall be maintained at the facility.

<p>all written complaints (including all regulatory notices such as: Notice of Violations, Notice and Orders, Clean-up & Abatement Orders) concerning the facility received by the operator during a quarter and the operator's responses/corrective action taken to the LEA within fifteen (15) days of the end of each quarter.</p> <p>8. The operator shall maintain at the facility a log of special/unusual occurrences(S/U,O). The log shall include, but not be limited to: fire, explosions, discharges of unusual waste, significant incidents of personal injury, accidents and/or property damage. Each log entry shall be accompanied by a summary of the responses/corrective action taken by the operator to mitigate any negative impacts of each occurrence. Days without incidents of S/U,O shall be noted with an appropriate negative entry for such days such as "No S/U O today." The operator shall maintain this log at the facility or other approved location in a manner readily accessible to facility personnel and to the LEA/other regulatory personnel. A written summary of the log entries during a quarter shall be furnished to the LEA within fifteen (15) days of the end of each quarter.</p> <p>9. The operator shall comply with the requirements of all applicable laws pertaining to employee health and safety including an up to date written CAL-OSHA Injury Illness Prevention Program (IIPP) on-site and readily available for review by all facility personnel and by the LEA staff and other regulatory personnel. The IIPP shall include a comprehensive training plan, availability of all necessary on-site work/protection /safety equipment and adequate on-site first aid supplies. Whenever personnel are at the facility they shall have immediate radio and/or telephone access to a 911 emergency dispatcher.</p> <p>10. The operator shall use all reasonable measures to avoid "taking" of threatened, endangered, rare, and/or sensitive species, including use of tortoise proof fencing and authorized raven monitoring/control measures. The operator shall comply with all such measures, remediation and compensations may be incorporated into any Cooperative Agreement (CA) with the U.S. Department of Interior – Bureau of Land Management (BLM), U.S. Fish and Wildlife Service(USF&WS) and the California Department of Fish &game (CDF&G). The LEA shall receive a copy of the updates and all other written materials the operator sends to or receives from the BLM, USF&WS, CDF&G.</p>	
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Other changes being proposed as an aspect of this permit action which is founded in the amended Report of Facility Information includes the following:

- Updates to reflect the increase in traffic volume and the LEA approved exemption of the gas monitoring and control requirement.

Executive Director Findings

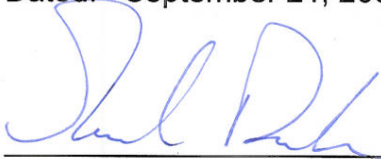
CCR Title 27 Sections	Findings	Acceptable	Unacceptable
21685(b)(1) LEA certified Report of Facility Information	The LEA provided the required certification.	<input checked="" type="checkbox"/>	
21685(b)(2) LEA Five Year Permit Review	The LEA provided the required documentation. [A permit review report was completed on February 28, 2005.]	<input checked="" type="checkbox"/>	
21685(b)(3) Solid Waste Facility Permit	The LEA provided all the required documentation.	<input checked="" type="checkbox"/>	
21685 (b)(4)(A) or (B) Consistency with PRC 50000.5 or LEA finding relative to PRC 50001	Board staff in the Jurisdictional Compliance and Audit Section have found the facility consistent with the Siting Facility Element of the California Integrated Waste Management Plan.	<input checked="" type="checkbox"/>	
21685(b)(7) Operations consistent with State Minimum Standards	Board staff in the Waste Compliance and Mitigation Program found that the facility was in compliance with all operating and design requirements during an inspection conducted on June 3, 2009. However, the operator was in violation of the terms and condition of the Solid Waste Facilities Permit for exceeding the maximum permitted traffic volume three times in 2008 and two times in 2009. The current permitted traffic volume is two vehicles per day. The proposed permit modification will increase the traffic volume thus correcting the violation.	<input checked="" type="checkbox"/>	
21685(b)(8) LEA CEQA finding	The LEA provided a finding that the proposed permit is consistent with and supported by the existing CEQA documentation.	<input checked="" type="checkbox"/>	
CEQA determination to support responsible agency's findings	Board staff in the Waste Compliance and Mitigation Program found that the proposed permit is consistent with CEQA and supports the ED concurrence in the modified permit.	<input checked="" type="checkbox"/>	

September 17, 2009

Executive Director Action:

On the basis of the information in this Request for Action on Modified Solid Waste Facilities Permit and the findings set out above, the Program Manager hereby concurs in the Modified Permit.

Dated: September 21, 2009



Ted Rauh, Program Manager

Attachment: Proposed Modified Permit 36-AA-0074, dated July 20, 2009

